

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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FRANK GIOVINCO,

Petitioner,

22 CIVIL 9892 (JSR)

-against-

JUDGMENT

UNITED STATES OF AMERICA

Respondent.


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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons set forth in the Court's Order dated September 19, 2023, the Court hereby adopts the Report and Recommendation, and, for the reasons therein, dismisses the petition with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Dated: New York, New York
September 19, 2023

RUBY J. KRAJICK
Clerk of Court

BY:



Deputy Clerk